



Agenda Date: 09/10/03  
Agenda Item: 3B

**STATE OF NEW JERSEY**

***Board of Public Utilities***

***Two Gateway Center***

***Newark, NJ 07102***

***www.bpu.state.nj.us***

**OFFICE OF CABLE TELEVISION**

IN THE MATTER OF THE JOINT PETITION OF RCN )  
TELECOM SERVICES, INC. AND PATRIOT MEDIA & )  
COMMUNICATIONS CNJ, LLC FOR APPROVAL )  
OF THE TRANSFER OF CERTIFICATES OF )  
APPROVAL, FOR TRANSFER OF PARTNERSHIP )  
INTERESTS AND FOR APPROVAL OF THE )  
SALE OF ASSETS )  
)  
)

**ORDER**  
**ACCEPTING OFFER OF**  
**SETTLEMENT**

Docket No. CM02090653

**(SEE ATTACHED SERVICE LIST)**

BY THE BOARD:

The New Jersey Board of Public Utilities (Board), Office of Cable Television, pursuant to N.J.S.A. 48:5A-1 et seq., has been granted general supervision and regulation of and jurisdiction and control over all cable television systems which operate within the State of New Jersey, subject only to the limitations of Federal law. Pursuant to this authority, the within matter was opened to the Board by receipt of a Motion for Reconsideration of the Board's May 21, 2003 Order denying Patriot Media & Communications CNJ, LLC's (Patriot) motion for clarification on extending the rebuild deadlines in Princeton Borough, Princeton Township and Branchburg Township (collectively, the municipalities) from June 30, 2003 to December 31, 2003.

By way of background, on February 5, 2003, the Board Staff and RCN Telecom Services, Inc. (RCN) executed an Administrative Consent Agreement, which, among other things, set forth a listing of construction commitments. Included in this was a commitment to a June 30, 2003 rebuild completion date for the municipalities. The Board reviewed and approved this agreement at its February 5, 2003 agenda meeting and issued an Order Accepting the Administrative Consent Agreement on February 13, 2003, in Docket No. CX01070460.

At its February 5, 2003 agenda meeting, the Board also approved the Joint Petition of Patriot and RCN seeking approval of the Asset Purchase Agreement entered into by the parties, in the above-

captioned matter and issued a written Order dated February 6, 2003. A Condition of the Order was that Patriot was bound by the terms of the Administrative Consent Agreement.

By letter dated April 17, 2003, Patriot requested clarification of the Board's February 6, 2003 Order. Patriot claimed that attachments to the Joint Petition and Asset Purchase Agreement modified the date of completion included in the Administrative Consent Agreement such that December 31, 2003 is the completion date for the rebuild in the municipalities. By Order stated May 21, 2003, the Board denied Patriot's request for a clarification and reiterated that the deadline for the rebuild in the municipalities remained June 30, 2003. On May 22, 2003, Patriot filed the present Motion for Reconsideration.

In an attempt to resolve the matter on an amicable basis, Board Staff and Patriot entered into negotiations, which resulted in Patriot making an offer of settlement. Under the settlement offer, Patriot would be granted an extension on the rebuild deadline in Princeton Borough, Princeton Township and Branchburg Township from June 30, 2003 to September 30, 2003. Patriot has represented that no other municipality will have its rebuild completion date affected by this extension and Patriot will provide Princeton Borough, Princeton Township and Branchburg Township each with \$6,000 of equipment and/or funds towards its Public, Educational and Governmental ("PEG") programming. Additionally, Patriot has submitted express written approval of the extension from all three municipalities. Board Staff has recommended acceptance of this settlement offer based upon the aforementioned commitments. The Office of Cable Television will monitor and enforce Patriot's compliance with its terms.

The Board has reviewed the Offer of Settlement and recommendation of Board Staff, and HEREBY FINDS it to be reasonable. Therefore, the Board HEREBY ACCEPTS the Offer of Settlement and incorporates its terms as if fully set forth herein subject to the following:

1. Patriot shall issue an in-kind benefit to the municipalities of \$6,000 per municipality, for a total outlay of \$18,000, above and beyond any previous commitment, to benefit each municipality's PEG system, such benefit to be fully distributed no later than September 15, 2003.
2. Patriot shall provide to the Board, within ten (10) days of completion of the rebuild in each of the municipalities, a certification indicating the completion date of the rebuild and the compliance with this Order.
3. Should Patriot's cable system in the municipalities merge and/or migrate to another system, its ownership or control be otherwise sold or transferred to another entity, before completion of any of the terms, conditions and requirements of the settlement offer and this Order are fully satisfied, said terms, conditions and requirements will be fully binding on Patriot and any successor until all such terms, conditions and provisions are satisfied.
4. Except as set forth in this Offer of Settlement as to the rebuild deadlines in the three municipalities, all other terms and conditions of the Board's Order of February 6, 2003, in Docket No. CM02090653, remain in effect and are binding upon Patriot. Patriot guarantees that the extension granted under this Order will not delay, in any way, any rebuild in other municipalities in the State.

5. The Board's acceptance of this settlement offer is for the purposes of this proceeding only, addresses only those specific issues, actions and timeframes addressed in the settlement offer and shall not be construed as limiting the Board's authority in any other matter affecting Patriot, or any successor or successors, in any current or future matters.

DATED: September 11, 2003

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

\_\_\_\_\_  
JEANNE M. FOX  
PRESIDENT

(signed)

\_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

(signed)

\_\_\_\_\_  
CAROL J. MURPHY  
COMMISSIONER

(signed)

\_\_\_\_\_  
CONNIE O. HUGHES  
COMMISSIONER

(signed)

\_\_\_\_\_  
JACK ALTER  
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO  
SECRETARY

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